

Calendar No. 100

109TH CONGRESS
1ST SESSION**S. 536****[Report No. 109–67]**

To make technical corrections to laws relating to Native Americans, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 7, 2005

Mr. MCCAIN (for himself and Mr. DORGAN) introduced the following bill;
which was read twice and referred to the Committee on Indian Affairs

MAY 12, 2005

Reported by Mr. MCCAIN, without amendment

A BILL

To make technical corrections to laws relating to Native
Americans, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Native American Omnibus Act of 2005”.

- 1 (b) TABLE OF CONTENTS.—The table of contents of
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
 Sec. 2. Definition of Secretary.

TITLE I—TECHNICAL AMENDMENTS TO LAWS RELATING TO NATIVE AMERICANS

Subtitle A—General Provisions

- Sec. 101. Indian Financing Act amendments.
 Sec. 102. Indian tribal justice technical and legal assistance.
 Sec. 103. Tribal justice systems.
 Sec. 104. Indian Pueblo Land Act amendments.
 Sec. 105. Prairie Island land conveyance.
 Sec. 106. Binding arbitration for Gila River Indian Community reservation contracts.
 Sec. 107. Puyallup Indian Tribe land claims settlement amendments.
 Sec. 108. Definition of Native American.
 Sec. 109. Fallon Paiute Shoshone Tribes settlement.
 Sec. 110. Washoe tribe of Nevada and California land conveyance.
 Sec. 111. Indian arts and crafts.
 Sec. 112. Colorado River Indian Reservation boundary correction.
 Sec. 113. Native American Programs Act of 1974.
 Sec. 114. Research and educational activities.

Subtitle B—Indian Education Provisions

- Sec. 121. Definition of Indian student count.
 Sec. 122. Native Nations leadership, management, and policy.

Subtitle C—Border Preparedness

- Sec. 131. Border preparedness on Indian land.

TITLE II—OTHER AMENDMENTS TO LAWS RELATING TO NATIVE AMERICANS

Subtitle A—Indian Land Leasing

- Sec. 201. Authorization of 99-year leases.
 Sec. 202. Certification of rental proceeds.

Subtitle B—Navajo Health Contracting

- Sec. 211. Navajo health contracting.

Subtitle C—Probate Technical Correction

- Sec. 221. Probate reform.

1 **SEC. 2. DEFINITION OF SECRETARY.**

2 In this Act, the term “Secretary” means the Sec-
3 retary of the Interior.

4 **TITLE I—TECHNICAL AMEND-**
5 **MENTS TO LAWS RELATING**
6 **TO NATIVE AMERICANS**

7 **Subtitle A—General Provisions**

8 **SEC. 101. INDIAN FINANCING ACT AMENDMENTS.**

9 (a) LOAN GUARANTIES AND INSURANCE.—Section
10 201 of the Indian Financing Act of 1974 (25 U.S.C.
11 1481) is amended—

12 (1) by striking “the Secretary is authorized (a)
13 to guarantee” and inserting “the Secretary may—
14 “(1) guarantee”;

15 (2) by striking “members; and (b) in lieu of
16 such guaranty, to insure” and inserting “members;
17 or

18 “(2) to insure”;

19 (3) by striking “**SEC. 201.** In order” and in-
20 serting the following:

21 **“SEC. 201. LOAN GUARANTIES AND INSURANCE.**

22 “(a) IN GENERAL.—In order”; and

23 (4) by adding at the end the following:

24 “(b) ELIGIBLE BORROWERS.—The Secretary may
25 guarantee or insure loans under subsection (a) to both for-
26 profit and nonprofit borrowers.”.

1 (b) LOAN APPROVAL.—Section 204 of the Indian Fi-
 2 nancing Act of 1974 (25 U.S.C. 1484) is amended by
 3 striking “**SEC. 204.**” and inserting the following:

4 **“SEC. 204. LOAN APPROVAL.”.**

5 (c) SALE OR ASSIGNMENT OF LOANS AND UNDER-
 6 LYING SECURITY.—Section 205 of the Indian Financing
 7 Act of 1974 (25 U.S.C. 1485) is amended—

8 (1) by striking “**SEC. 205.**” and all that follows
 9 through subsection (b) and inserting the following:

10 **“SEC. 205. SALE OR ASSIGNMENT OF LOANS AND UNDER-**
 11 **LYING SECURITY.**

12 “(a) IN GENERAL.—All or any portion of a loan
 13 guaranteed or insured under this title, including the secu-
 14 rity given for the loan—

15 “(1) may be transferred by the lender by sale
 16 or assignment to any person; and

17 “(2) may be retransferred by the transferee.

18 “(b) TRANSFERS OF LOANS.—With respect to a
 19 transfer described in subsection (a)—

20 “(1) the transfer shall be consistent with such
 21 regulations as the Secretary shall promulgate under
 22 subsection (h); and

23 “(2) the transferee shall give notice of the
 24 transfer to the Secretary.”;

25 (2) by striking subsection (c);

1 (3) by redesignating subsections (d), (e), (f),
 2 (g), (h), and (i) as subsections (c), (d), (e), (f), (g),
 3 and (h), respectively;

4 (4) in subsection (c) (as redesignated by para-
 5 graph (3))—

6 (A) by striking “**VALIDITY.—**” and all
 7 that follows through “subparagraph (B),” and
 8 inserting “**VALIDITY.—**Except as provided by
 9 regulations in effect on the date on which a
 10 loan is made,”; and

11 (B) by striking “incontestable” and all
 12 that follows and inserting “incontestable.”;

13 (5) in subsection (e) (as redesignated by para-
 14 graph (3))—

15 (A) by striking “The Secretary” and in-
 16 serting the following:

17 “(1) IN GENERAL.—The Secretary”; and

18 (B) by adding at the end the fol-
 19 lowing:

20 “(2) COMPENSATION OF FISCAL TRANSFER
 21 AGENT.—A fiscal transfer agent designated under
 22 subsection (f) may be compensated through any of
 23 the fees assessed under this section and any interest
 24 earned on any funds or fees collected by the fiscal
 25 transfer agent while the funds or fees are in the con-

1 trol of the fiscal transfer agent and before the time
 2 at which the fiscal transfer agent is contractually re-
 3 quired to transfer such funds to the Secretary or to
 4 transferees or other holders.”; and

5 (6) in subsection (f) (as redesignated by para-
 6 graph (3))—

7 (A) by striking “subsection (i)” and insert-
 8 ing “subsection (h)”; and

9 (B) in paragraph (2)(B), by striking “,
 10 and issuance of acknowledgments,”.

11 (d) LOANS INELIGIBLE FOR GUARANTY OR INSUR-
 12 ANCE.—Section 206 of the Indian Financing Act of 1974
 13 (25 U.S.C. 1486) is amended by inserting “(not including
 14 an eligible Native American owned or operated Commu-
 15 nity Development Finance Institution)” after “Govern-
 16 ment”.

17 (e) AGGREGATE LOANS OR SURETY BONDS LIMITA-
 18 TION.—Section 217(b) of the Indian Financing Act of
 19 1974 (25 U.S.C. 1497(b)) is amended by striking
 20 “\$500,000,000” and inserting “\$1,500,000,000”.

21 **SEC. 102. INDIAN TRIBAL JUSTICE TECHNICAL AND LEGAL**
 22 **ASSISTANCE.**

23 Sections 106 and 201(d) of the Indian Tribal Justice
 24 Technical and Legal Assistance Act (25 U.S.C. 3666,
 25 3681(d)) are amended by striking “for fiscal years 2000

1 through 2004” and inserting “for fiscal years 2004
2 through 2010”.

3 **SEC. 103. TRIBAL JUSTICE SYSTEMS.**

4 Subsections (a), (b), (c), and (d) of section 201 of
5 the Indian Tribal Justice Act (25 U.S.C. 3621) are
6 amended by striking “2007” and inserting “2010”.

7 **SEC. 104. INDIAN PUEBLO LAND ACT AMENDMENTS.**

8 (a) IN GENERAL.—The Act of June 7, 1924 (43 Stat.
9 636, chapter 331), is amended by adding at the end the
10 following:

11 **“SEC. 20. CRIMINAL JURISDICTION.**

12 “(a) IN GENERAL.—Except as otherwise provided by
13 Congress, jurisdiction over offenses committed anywhere
14 within the exterior boundaries of any grant from a prior
15 sovereign, as confirmed by Congress or the Court of Pri-
16 vate Land Claims to a Pueblo Indian tribe of New Mexico,
17 shall be as provided in this section.

18 “(b) JURISDICTION OF THE PUEBLO.—The Pueblo
19 has jurisdiction, as an act of the Pueblos’ inherent power
20 as an Indian tribe, over any offense committed by a mem-
21 ber of the Pueblo or of another Indian tribe, or by any
22 other Indian-owned entity.

23 “(c) JURISDICTION OF THE UNITED STATES.—The
24 United States has jurisdiction over any offense described
25 in chapter 53 of title 18, United States Code, committed

1 by or against an Indian or any Indian-owned entity, or
 2 that involves any Indian property or interest.

3 “(d) JURISDICTION OF THE STATE OF NEW MEX-
 4 ICO.—The State of New Mexico shall have jurisdiction
 5 over any offense committed by a person who is not a mem-
 6 ber of an Indian tribe, which offense is not subject to the
 7 jurisdiction of the United States.”.

8 **SEC. 105. PRAIRIE ISLAND LAND CONVEYANCE.**

9 (a) IN GENERAL.—The Secretary of the Army shall
 10 convey all right, title, and interest of the United States
 11 in and to the land described in subsection (b), including
 12 all improvements, cultural resources, and sites on the land,
 13 subject to the flowage and sloughing easement described
 14 in subsection (d) and to the conditions stated in subsection
 15 (f), to the Secretary, to be—

16 (1) held in trust by the United States for the
 17 benefit of the Prairie Island Indian Community in
 18 Minnesota; and

19 (2) included in the Prairie Island Indian Com-
 20 munity Reservation in Goodhue County, Minnesota.

21 (b) LAND DESCRIPTION.—The land to be conveyed
 22 under subsection (a) is the approximately 1290 acres of
 23 land associated with the Lock and Dam #3 on the Mis-
 24 sissippi River in Goodhue County, Minnesota, located in
 25 tracts identified as GO-251, GO-252, GO-271, GO-277,

1 GO-278, GO-284, GO-301 through GO-313, GO-314A,
 2 GO-314B, GO-329, GO-330A, GO-330B, GO-331A,
 3 GO-331B, GO-331C, GO-332, GO-333, GO-334, GO-
 4 335A, GO-335B, GO-336 through GO-338, GO-339A,
 5 GO-339B, GO-339C, GO-339D, GO-339E, GO-340A,
 6 GO-340B, GO-358, GO-359A, GO-359B, GO-359C,
 7 GO-359D, and GO-360, as depicted on the map entitled
 8 “United States Army Corps of Engineers survey map of
 9 the Upper Mississippi River 9-Foot Project, Lock & Dam
 10 No. 3 (Red Wing), Land & Flowage Rights” and dated
 11 December 1936.

12 (c) BOUNDARY SURVEY.—Not later than 5 years
 13 after the date of conveyance under subsection (a), the
 14 boundaries of the land conveyed shall be surveyed as pro-
 15 vided in section 2115 of the Revised Statutes (25 U.S.C.
 16 176).

17 (d) EASEMENT.—

18 (1) IN GENERAL.—The Corps of Engineers
 19 shall retain a flowage and sloughing easement for
 20 the purpose of navigation and purposes relating to
 21 the Lock and Dam No. 3 project over the portion of
 22 the land described in subsection (b) that lies below
 23 the elevation of 676.0.

24 (2) INCLUSIONS.—The easement retained under
 25 paragraph (1) includes—

1 (A) the perpetual right to overflow, flood,
 2 and submerge property as the District Engineer
 3 determines to be necessary in connection with
 4 the operation and maintenance of the Mis-
 5 sissippi River Navigation Project; and

6 (B) the continuing right to clear and re-
 7 move any brush, debris, or natural obstructions
 8 that, in the opinion of the District Engineer,
 9 may be detrimental to the project.

10 (e) OWNERSHIP OF STURGEON LAKE BED UNAF-
 11 FECTED.—Nothing in this section diminishes or otherwise
 12 affects the title of the State of Minnesota to the bed of
 13 Sturgeon Lake located within the tracts of land described
 14 in subsection (b).

15 (f) CONDITIONS.—The conveyance under subsection
 16 (a) is subject to the conditions that the Prairie Island In-
 17 dian Community shall not—

18 (1) use the conveyed land for human habitation;

19 (2) construct any structure on the land without
 20 the written approval of the District Engineer; or

21 (3) conduct gaming (within the meaning of sec-
 22 tion 4 of the Indian Gaming Regulatory Act (25
 23 U.S.C. 2703)) on the land.

24 (g) NO EFFECT ON ELIGIBILITY FOR CERTAIN
 25 PROJECTS.—Notwithstanding the conveyance under sub-

1 section (a), the land shall continue to be eligible for envi-
 2 ronmental management planning and other recreational or
 3 natural resource development projects on the same basis
 4 as before the conveyance.

5 (h) EFFECT OF SECTION.—Nothing in this section
 6 diminishes or otherwise affects the rights granted to the
 7 United States pursuant to letters of July 23, 1937, and
 8 November 20, 1937, from the Secretary to the Secretary
 9 of War and the letters of the Secretary of War in response
 10 to the Secretary dated August 18, 1937, and November
 11 27, 1937, under which the Secretary granted certain
 12 rights to the Corps of Engineers to overflow the portions
 13 of Tracts A, B, and C that lie within the Mississippi River
 14 9-Foot Channel Project boundary and as more particu-
 15 larly shown and depicted on the map entitled “United
 16 States Army Corps of Engineers survey map of the Upper
 17 Mississippi River 9-Foot Project, Lock & Dam No. 3 (Red
 18 Wing), Land & Flowage Rights” and dated December
 19 1936.

20 **SEC. 106. BINDING ARBITRATION FOR GILA RIVER INDIAN**
 21 **COMMUNITY RESERVATION CONTRACTS.**

22 (a) AMENDMENTS.—Subsection (f) of the first sec-
 23 tion of the Act of August 9, 1955 (25 U.S.C. 415(f)), is
 24 amended—

25 (1) in the first sentence—

1 (A) by striking “Any lease” and all that
 2 follows through “affecting land” and inserting
 3 “Any contract, including a lease, affecting
 4 land”; and

5 (B) by striking “such lease or contract”
 6 and inserting “such contract”; and

7 (2) in the second sentence, by striking “such
 8 leases or contracts entered into pursuant to such
 9 Acts” and inserting “Such contracts”.

10 (b) EFFECTIVE DATE.—The amendments made by
 11 subsection (a) shall take effect as if included in the Act
 12 of August 9, 1955 (69 Stat. 539, chapter 615) and Public
 13 107–159 (116 Stat. 122).

14 **SEC. 107. PUYALLUP INDIAN TRIBE LAND CLAIMS SETTLE-**
 15 **MENT AMENDMENTS.**

16 (a) IN GENERAL.—The Secretary shall—

17 (1) accept the conveyance of the parcels of land
 18 within the Puyallup Reservation described in sub-
 19 section (b); and

20 (2) hold the land in trust for the benefit of the
 21 Puyallup Indian Tribe.

22 (b) LAND DESCRIPTION.—The parcels of land re-
 23 ferred to in subsection (a) are as follows:

24 (1) PARCEL A.—Lot B, boundary line adjust-
 25 ment 9508150496: according to the map thereof re-

1 corded August 15, 1995, records of Pierce County
 2 Auditor, situate in the city of Fife, county of Pierce,
 3 State of Washington.

4 (2) PARCEL B.—Lots 3 and 4, Pierce County
 5 Short Plat No. 8908020412: according to the map
 6 thereof recorded August 2, 1989, records of Pierce
 7 County Auditor, together with portion of SR 5 abut-
 8 ting lot 4, conveyed by deed recorded under record-
 9 ing number 9309070433, described as follows:

10 That portion of Government lot 1, sec. 07, T.
 11 20 N., R. 4 E., of the Willamette Meridian, de-
 12 scribed as commencing at Highway Engineer's Sta-
 13 tion (hereinafter referred to as HES) AL 26 6+38.0
 14 P.O.T. on the AL26 line survey of SR 5, Tacoma
 15 to King County line: Thence S88°54'30" E., along
 16 the north line of said lot 1 a distance of 95 feet to
 17 the true point of beginning: Thence S01°05'30"
 18 W87.4' feet: Thence westerly to a point opposite
 19 HES AL26 5+50.6 P.O.T. on said AL26 line sur-
 20 vey and 75 feet easterly therefrom; Thence north-
 21 westerly to a point opposite AL26 5+80.6 on said
 22 AL26 line survey and 55 feet easterly therefrom:
 23 Thence northerly parallel with said line survey to the
 24 north line of said lot 1: Thence N88°54'30" E., to
 25 the true point of beginning.

1 Except that portion of lot 4 conveyed to the
 2 State of Washington by deed recorded under record-
 3 ing number 9308100165 and more particularly de-
 4 scribed as follows:

5 Commencing at the northeast corner of said lot
 6 4: Thence $N89^{\circ}53'30''$ W., along the north line of
 7 said lot 4 a distance of 147.44 feet to the true point
 8 of beginning and a point of curvature; thence south-
 9 westerly along a curve to the left, the center of
 10 which bears $S0^{\circ}06'30''$ W., 55.00 feet distance,
 11 through a central angle of $89^{\circ}01'00''$, an arc dis-
 12 tance of 85.45 feet; Thence $S01^{\circ}05'30''$ W., 59.43
 13 feet; Thence $N88^{\circ}54'30''$ W., 20.00 feet to a point
 14 on the westerly line of said lot 4; Thence $N0^{\circ}57'10''$
 15 E., along said westerly line 113.15 feet to the north-
 16 west corner of said lot 4; Thence $S89^{\circ}53'30''$ east
 17 along said north line, a distance of 74.34 feet to the
 18 true point of beginning.

19 Chicago Title Insurance Company Order No.
 20 4293514 Lot A boundary line adjustment recorded
 21 under Recording No. 9508150496. According to the
 22 map thereof recorded August 15, 1995, records of
 23 Pierce County Auditor.

24 Situate in the city of Fife, county of Pierce,
 25 State of Washington.

1 (3) ADDITIONAL LOTS.—Any lots acquired by
 2 the Tribe located in block 7846, 7850, 7945, 7946,
 3 7949, 7950, 8045, or 8049 in the Indian Addition
 4 to the city of Tacoma, State of Washington.

5 **SEC. 108. DEFINITION OF NATIVE AMERICAN.**

6 Section 2(9) of the Native American Graves Protec-
 7 tion and Repatriation Act (25 U.S.C. 3001(9)) is amend-
 8 ed—

9 (1) by inserting “or was” after “is”; and

10 (2) by inserting after “indigenous to” the fol-
 11 lowing: “any geographic area that is now located
 12 within the boundaries of”.

13 **SEC. 109. FALLON PAIUTE SHOSHONE TRIBES SETTLE-**
 14 **MENT.**

15 (a) SETTLEMENT FUND.—Section 102 of the Fallon
 16 Paiute Shoshone Indian Tribes Water Rights Settlement
 17 Act of 1990 (104 Stat. 3289) is amended—

18 (1) in subsection (C)—

19 (A) in paragraph (1)—

20 (i) by striking “The income of the
 21 Fund may be obligated and expended only
 22 for the following purposes:” and inserting
 23 the following: “Notwithstanding any con-
 24 flicting provision in the original Fund plan
 25 during Fund fiscal year 2004 and during

1 each subsequent Fund fiscal year, 6 per-
 2 cent of the average quarterly market value
 3 of the Fund during the immediately pre-
 4 ceding 3 Fund fiscal years (referred to in
 5 this title as the ‘Annual 6 percent
 6 Amount’), plus any unexpended and unob-
 7 ligated portion of the Annual 6 percent
 8 Amount from any of the 3 immediately
 9 preceding Fund fiscal years that are subse-
 10 quent to Fund fiscal year 2003, less any
 11 negative income that may accrue on that
 12 portion, may be expended or obligated only
 13 for the following purposes.”; and

14 (ii) by adding at the end the fol-
 15 lowing:

16 “(g) Fees and expenses incurred in connection
 17 with the investment of the Fund, for investment
 18 management, investment consulting, custodianship,
 19 and other transactional services or matters.”; and

20 (B) by striking paragraph (4) and inserting the
 21 following:

22 “(4) No monies from the Fund other than the
 23 amounts authorized under paragraphs (1) and (3) may be
 24 expended or obligated for any purpose.

1 “(5) Notwithstanding any conflicting provision in the
2 original Fund plan, during Fund fiscal year 2004 and dur-
3 ing each subsequent Fund fiscal year, not more than 20
4 percent of the Annual 6 percent Amount for the Fund fis-
5 cal year (referred to in this title as the ‘Annual 1.2 percent
6 Amount’) may be expended or obligated under paragraph
7 (1)(c) for per capita distributions to tribal members, ex-
8 cept that during each Fund fiscal year subsequent to
9 Fund fiscal year 2004, any unexpended and unobligated
10 portion of the Annual 1.2 percent Amount from any of
11 the 3 immediately preceding Fund fiscal years that are
12 subsequent to Fund fiscal year 2003, less any negative
13 income that may accrue on that portion, may also be ex-
14 pended or obligated for such per capita payments.”; and

15 (2) in subsection (D), by adding at the end the fol-
16 lowing: “Notwithstanding any conflicting provision in the
17 original Fund plan, the Fallon Business Council, in con-
18 sultation with the Secretary, shall promptly amend the
19 original Fund plan for purposes of conforming the Fund
20 plan to this title and making nonsubstantive updates, im-
21 provements, or corrections to the original Fund plan.”.

22 (b) DEFINITIONS.—Section 107 of the Fallon Paiute
23 Shoshone Indian Tribes Water Rights Settlement Act of
24 1990 (104 Stat. 3293) is amended—

1 (1) by redesignating subsections (D), (E), (F),
 2 and (G) as subsections (F), (G), (H), and (I), re-
 3 spectively; and

4 (2) by striking subsections (B) and (C) and in-
 5 serting the following:

6 “(B) the term ‘Fund fiscal year’ means a fiscal
 7 year of the Fund (as defined in the Fund plan);

8 “(C) the term ‘Fund plan’ means the plan es-
 9 tablished under section 102(F), including the origi-
 10 nal Fund plan (the ‘Plan for Investment, Manage-
 11 ment, Administration and Expenditure dated De-
 12 cember 20, 1991’) and all amendments of the Fund
 13 plan under subsection (D) or (F)(1) of section 102;

14 “(D) the term ‘income’ means the total net re-
 15 turn from the investment of the Fund, consisting of
 16 all interest, dividends, realized and unrealized gains
 17 and losses, and other earnings, less all related fees
 18 and expenses incurred for investment management,
 19 investment consulting, custodianship and trans-
 20 actional services or matters;

21 “(E) the term ‘principal’ means the total
 22 amount appropriated to the Fallon Paiute Shoshone
 23 Tribal Settlement Fund under section 102(B);”.

1 **SEC. 110. WASHOE TRIBE OF NEVADA AND CALIFORNIA**
 2 **LAND CONVEYANCE.**

3 Section 2 of Public Law 108–67 (117 Stat. 880) is
 4 amended by striking “the parcel” and all that follows and
 5 inserting “a portion of Lots 3 and 4, as shown on the
 6 United States and Encumbrance Map revised January 10,
 7 1991, for the Toiyabe National Forest, Ranger District
 8 Carson – 1, located in the S ½ of NW ¼ and N ½ of
 9 SW ¼ of the SE ¼ of sec. 27, T. 15N, R. 18E, Mt.
 10 Diablo Base and Meridian, comprising 24.3 acres.”.

11 **SEC. 111. INDIAN ARTS AND CRAFTS.**

12 (a) CRIMINAL PROCEEDINGS; CIVIL ACTIONS; MIS-
 13 REPRESENTATIONS.—Section 5 of the Indian Arts and
 14 Crafts Act of 1990 (25 U.S.C. 305d) is amended to read
 15 as follows:

16 **“SEC. 5. CRIMINAL PROCEEDINGS; CIVIL ACTIONS.**

17 “(a) DEFINITION OF FEDERAL LAW ENFORCEMENT
 18 OFFICER.—In this section, the term ‘Federal law enforce-
 19 ment officer’ has the meaning given the term in section
 20 115(c) of title 18, United States Code.

21 “(b) CRIMINAL PROCEEDINGS.—

22 “(1) REFERRAL.—On receiving a complaint of
 23 a violation of section 1159 of title 18, United States
 24 Code, the Board may refer the complaint to any
 25 Federal law enforcement officer for appropriate in-
 26 vestigation.

1 “(2) FINDINGS.—The findings of an investiga-
2 tion under paragraph (1) shall be submitted to—

3 “(A) the Attorney General; and

4 “(B) the Board.

5 “(3) RECOMMENDATIONS.—On receiving the
6 findings of an investigation in accordance with para-
7 graph (2), the Board may—

8 “(A) recommend to the Attorney General
9 that criminal proceedings be initiated under
10 section 1159 of that title; and

11 “(B) provide such support to the Attorney
12 General relating to the criminal proceedings as
13 the Attorney General determines appropriate.

14 “(c) CIVIL ACTIONS.—In lieu of, or in addition to,
15 any criminal proceeding under subsection (a), the Board
16 may recommend that the Attorney General initiate a civil
17 action pursuant to section 6.”.

18 (b) Section 6 of the Indian Arts and Crafts Act of
19 1990 (25 U.S.C. 305e) is amended—

20 (1) by striking subsection (d);

21 (2) by redesignating subsections (a) through (c)
22 as subsections (b) through (d), respectively;

23 (3) by inserting before subsection (b) (as redes-
24 ignated by paragraph (2)) the following:

25 “(a) DEFINITIONS.—In this section:

1 “(1) INDIAN.—The term ‘Indian’ means an in-
2 dividual that—

3 “(A) is a member of an Indian tribe; or

4 “(B) is certified as an Indian artisan by an
5 Indian tribe.

6 “(2) INDIAN PRODUCT.—The term ‘Indian
7 product’ has the meaning given the term in any reg-
8 ulation promulgated by the Secretary.

9 “(3) INDIAN TRIBE.—

10 “(A) IN GENERAL.—The term ‘Indian
11 tribe’ has the meaning given the term in section
12 4 of the Indian Self-Determination and Edu-
13 cation Assistance Act (25 U.S.C. 450b).

14 “(B) INCLUSION.—The term ‘Indian tribe’
15 includes an Indian group that has been formally
16 recognized as an Indian tribe by—

17 “(i) a State legislature;

18 “(ii) a State commission; or

19 “(iii) another similar organization
20 vested with State legislative tribal recogni-
21 tion authority.

22 “(4) SECRETARY.—The term ‘Secretary’ means
23 the Secretary of the Interior.”;

24 (4) in subsection (c) (as redesignated by para-
25 graph (2))—

1 (A) by striking “of this section”; and

2 (B) by striking “suit” and inserting “the
3 civil action”;

4 (5) by striking subsection (d) (as redesignated
5 by paragraph (2)) and inserting the following:

6 “(d) PERSONS THAT MAY INITIATE CIVIL AC-
7 TIONS.—

8 “(1) IN GENERAL.—A civil action under sub-
9 section (b) may be initiated by—

10 “(A) the Attorney General, at the request
11 of the Secretary acting on behalf of—

12 “(i) an Indian tribe;

13 “(ii) an Indian; or

14 “(iii) an Indian arts and crafts orga-
15 nization;

16 “(B) an Indian tribe, acting on behalf of—

17 “(i) the tribe;

18 “(ii) a member of that tribe; or

19 “(iii) an Indian arts and crafts orga-
20 nization;

21 “(C) an Indian; or

22 “(D) an Indian arts and crafts organiza-
23 tion.

24 “(2) DISPOSITION OF AMOUNTS RECOVERED.—

1 “(A) IN GENERAL.—Except as provided in
 2 subparagraph (B), an amount recovered in a
 3 civil action under this section shall be paid to
 4 the Indian tribe, the Indian, or the Indian arts
 5 and crafts organization on the behalf of which
 6 the civil action was initiated.

7 “(B) EXCEPTIONS.—

8 “(i) ATTORNEY GENERAL.—In the
 9 case of a civil action initiated under para-
 10 graph (1)(A), the Attorney General may
 11 deduct from the amount—

12 “(I) the amount of the cost of
 13 the civil action and reasonable attor-
 14 ney’s fees awarded under subsection
 15 (c), to be deposited in the Treasury
 16 and credited to appropriations avail-
 17 able to the Attorney General on the
 18 date on which the amount is recov-
 19 ered; and

20 “(II) the amount of the costs of
 21 investigation awarded under sub-
 22 section (c), to reimburse the Board
 23 for the activities of the Board relating
 24 to the civil action.

1 “(ii) INDIAN TRIBE.—In the case of a
 2 civil action initiated under paragraph
 3 (1)(B), the Indian tribe may deduct from
 4 the amount—

5 “(I) the amount of the cost of
 6 the civil action; and

7 “(II) reasonable attorney’s fees.”;

8 (6) in subsection (e), by striking “(e) In the
 9 event that” and inserting the following:

10 “(e) SAVINGS PROVISION.—If”; and

11 (7) by striking subsection (f) and inserting the
 12 following:

13 “(f) REGULATIONS.—Not later than 180 days after
 14 the date of enactment of the Native American Omnibus
 15 Act of 2005, the Board shall promulgate regulations to
 16 include in the definition of the term ‘Indian product’ ex-
 17 amples of each Indian product to provide guidance and
 18 notice to Indian artisans, suppliers of the artisans, and
 19 consumers of Indian arts and crafts.”.

20 (c) CONFORMING AMENDMENT.—Section 1159(c) of
 21 title 18, United States Code, is amended by striking para-
 22 graph (3) and inserting the following:

23 “(3) the term ‘Indian tribe’—

24 “(A) has the meaning given the term in
 25 section 4 of the Indian Self-Determination and

1 Education Assistance Act (25 U.S.C. 450b);
 2 and

3 “(B) includes an Indian group that has
 4 been formally recognized as an Indian tribe
 5 by—

6 “(i) a State legislature;

7 “(ii) a State commission; or

8 “(iii) another similar organization
 9 vested with State legislative tribal recog-
 10 nition authority; and”.

11 **SEC. 112. COLORADO RIVER INDIAN RESERVATION BOUND-**
 12 **ARY CORRECTION.**

13 (a) FINDINGS.—Congress finds that—

14 (1) the Act of March 3, 1865, created the Colo-
 15 rado River Indian Reservation along the Colorado
 16 River in Arizona and California for the “Indians of
 17 said river and its tributaries”;

18 (2) in 1873 and 1874, President Grant issued
 19 Executive orders to expand the Reservation south-
 20 ward and to secure the southern boundary of the
 21 Reservation at a clearly recognizable geographic lo-
 22 cation in order to forestall encroachment by non-In-
 23 dians and conflicts with the Indians of the Reserva-
 24 tion;

1 (3) in 1875, Chandler Robbins conducted the
2 Robbins Survey, delineating the new southern
3 boundary of the Reservation, which included the La
4 Paz land as part of the Reservation;

5 (4) on May 15, 1876, President Grant issued
6 an Executive order establishing the boundaries of
7 the Reservation as the boundaries delineated by the
8 Robbins Survey;

9 (5) in 1907, as a result of increasingly frequent
10 trespasses by miners and cattle and at the request
11 of the Bureau of Indian Affairs, the General Land
12 Office provided for a resurvey of the southern and
13 southeastern areas of the Reservation;

14 (6) in 1914, the General Land Office accepted
15 and approved the Harrington Survey, which con-
16 firmed the boundaries that were delineated by the
17 Robbins Survey and established by Executive order
18 in 1876;

19 (7) on November 19, 1915, the Secretary of the
20 Interior reversed the decision of the General Land
21 Office to accept the Harrington Survey, and, on the
22 recommendation of the Secretary on November 22,
23 1915, President Wilson issued Executive Order 2273
24 to correct the error in location of the southern

1 boundary line of the Reservation, effectively exclud-
2 ing the La Paz land from the Reservation;

3 (8) historical evidence compiled by the Depart-
4 ment of the Interior supports the conclusion that—

5 (A) the recommendation of the Secretary
6 in 1915 that the President issue an Executive
7 order to correct an error in locating the south-
8 ern boundary was in error; and

9 (B) the La Paz land should not have been
10 excluded from the Reservation; and

11 (9) the La Paz land continues to hold cultural
12 and historical significance, as well as economic devel-
13 opment potential, for the Tribe, which has consist-
14 ently sought to have the La Paz land restored to the
15 Reservation.

16 (b) PURPOSES.—The purposes of this section are—

17 (1) to correct the south boundary of the Res-
18 ervation by reestablishing the boundary as the
19 boundary was delineated by the Robbins Survey and
20 affirmed by the Harrington Survey;

21 (2) to restore the La Paz land to the Reserva-
22 tion, subject to Federal law;

23 (3) to provide for continued public access to the
24 La Paz land for recreational purposes; and

1 (4) to require the Secretary to ensure that the
2 Reservation boundary, as corrected by this section,
3 is resurveyed and marked in accordance with the
4 public system of surveys extended over the land.

5 (c) DEFINITIONS.—In this section:

6 (1) HARRINGTON SURVEY.—The term “Har-
7 rington Survey” means the survey of the Reserva-
8 tion conducted by Guy Harrington in 1912.

9 (2) LA PAZ LAND.—The term “La Paz land”
10 means the approximately 16,000 acres attributed to
11 the Reservation by the Robbins Survey.

12 (3) MAP.—The term “Map” means the map
13 prepared by the Secretary, acting through the Bu-
14 reau of Land Management, entitled “Colorado River
15 Indian Reservation Boundary Correction” and dated
16 January 4, 2005.

17 (4) RESERVATION.—The term “Reservation”
18 means the Colorado River Indian Reservation.

19 (5) ROBBINS SURVEY.—The term “Robbins
20 Survey” means the survey of the Reservation con-
21 ducted by Chandler Robbins in 1875.

22 (6) SECRETARY.—The term “Secretary” means
23 the Secretary of the Interior.

24 (7) TRIBE.—The term “Tribe” includes any
25 tribe a member of which resides on the Reservation.

1 (d) BOUNDARY CORRECTION.—

2 (1) IN GENERAL.—The boundaries of the Res-
 3 ervation shall include the boundaries that were delin-
 4 eated by the Robbins Survey, affirmed by the Har-
 5 rington Survey, including the approximately 15,375
 6 acres of Federal land described as “Land Identified
 7 for Transfer to Colorado River Indian Tribes” on
 8 the Map.

9 (2) REVIEW.—The Map shall be available for
 10 review at the Bureau of Land Management.

11 (3) RESURVEY AND MARKING.—The Secretary
 12 shall ensure that the boundary described in para-
 13 graph (1) is surveyed and clearly marked in accord-
 14 ance with the public system of surveys extended over
 15 the land.

16 (e) RESTORATION OF RIGHTS, TITLE, AND INTER-
 17 EST.—

18 (1) IN GENERAL.—Subject to paragraph (2)
 19 and other provisions of Federal law, all right, title,
 20 and interest of the United States to the land in the
 21 boundaries described in subsection (d)(1) that were
 22 excluded from the Reservation pursuant to Executive
 23 Order 2273 (relating to the southern boundary line
 24 of the Reservation)—

25 (A) are restored to the Reservation; and

1 (B) shall be held in trust by the United
2 States on behalf of the Tribe.

3 (2) EXCLUSIONS.—

4 (A) STATE LAND.—The 2 parcels of land
5 belonging to the State of Arizona (totaling 320
6 acres and 520 acres, respectively) that are iden-
7 tified on the Map as “State Land” shall be ex-
8 cluded from the land described in paragraph
9 (1).

10 (B) WATER RIGHTS.—The land described
11 in subsection (d)(1) shall not include any Fed-
12 eral reserve water right to surface water or
13 ground water from any source.

14 (C) PUBLIC ACCESS.—The public shall
15 have continued access to the land described in
16 subsection (d)(1) for hunting and other rec-
17 reational purposes in existence on the date of
18 enactment of this Act, in accordance with any
19 rule or regulation promulgated by the Tribe.

20 (D) ECONOMIC ACTIVITY.—

21 (i) IN GENERAL.—The land described
22 in subsection (d)(1) shall be subject to any
23 right-of-way, easement, lease, or mining
24 claim in existence on the date of enactment
25 of this Act.

1 (ii) RECLAMATION PROJECTS.—The
 2 United States reserves the right to con-
 3 tinue any reclamation project relating to
 4 the land described in subsection (d)(1) in
 5 existence on the date of enactment of this
 6 Act, including the right to access and re-
 7 move mineral materials for maintenance of
 8 the Colorado River.

9 (iii) ADDITIONAL RIGHTS-OF-WAY.—
 10 Notwithstanding any other provision of
 11 law, the Secretary, in consultation with the
 12 Tribe, shall grant any additional right-of-
 13 way (including an expansion or renewal of
 14 an existing right-of-way) for a road, utility,
 15 or another accommodation to an adjoining
 16 landowner or holder of a right-of-way (or
 17 their successors and assigns) if the Sec-
 18 retary determines that—

19 (I) the proposed right-of-way is
 20 necessary to the applicant;

21 (II) the acquisition of the pro-
 22 posed right-of-way will not cause sig-
 23 nificant harm to the Tribe; and

24 (III) the proposed right-of-way—

1 (aa) complies with part 169
 2 of title 25, Code of Federal Reg-
 3 ulations; and

4 (bb) is consistent with this
 5 subsection and other generally
 6 applicable Federal laws unrelated
 7 to the acquisition of interests on
 8 trust land.

9 (iv) EXCEPTION FOR ROADS AND
 10 UTILITIES.—Section 169.3 of title 25,
 11 Code of Federal Regulations, shall not
 12 apply to the expansion or renewal of a
 13 right-of-way in existence on the date of en-
 14 actment of this Act for a road or utility.

15 (v) FEES.—If the holder of a lease,
 16 easement, or right-of-way substantially
 17 complies with all terms of the lease, ease-
 18 ment, or right-of-way, the fees charged for
 19 the renewal of the lease, easement, or
 20 right-of-way under this section shall be not
 21 greater than the applicable Federal rate
 22 for such a lease, easement, or right-of-way
 23 at the time of the renewal.

24 (f) GAMING.—Land taken into trust under this sec-
 25 tion shall not—

1 (1) be considered to have been taken into trust
2 for gaming; or

3 (2) be used for gaming (as that term is used in
4 the Indian Gaming Regulatory Act (25 U.S.C. 2701
5 et seq.)).

6 **SEC. 113. NATIVE AMERICAN PROGRAMS ACT OF 1974.**

7 (a) INTRA-DEPARTMENTAL COUNCIL ON NATIVE
8 AMERICAN AFFAIRS.—Section 803B(d)(1) of the Native
9 American Programs Act of 1974 (42 U.S.C. 2991b–
10 2(d)(1)) is amended by striking “There” and all that fol-
11 lows and inserting the following: “There is established in
12 the Office of the Secretary the Intra-Departmental Coun-
13 cil on Native American Affairs. The Commissioner and the
14 Director of the Indian Health Service shall serve as co-
15 chairpersons of the Council. The co-chairpersons shall ad-
16 vise the Secretary on all matters affecting Native Ameri-
17 cans that involve the Department.”.

18 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
19 816 of the Native American Programs Act of 1974 (42
20 U.S.C. 2992d) is amended—

21 (1) by striking subsections (a) through (c) and
22 inserting the following:

23 “(a) IN GENERAL.—There are authorized to be ap-
24 propriated—

1 “(1) to carry out section 803(d), \$8,000,000
2 for each of fiscal years 2006 through 2010; and

3 “(2) to carry out provisions of this title other
4 than section 803(d) and any other provision having
5 an express authorization of appropriations, such
6 sums as are necessary for each of fiscal years 2006
7 through 2010.

8 “(b) LIMITATION.—Not less than 90 percent of the
9 funds made available to carry out this title for a fiscal
10 year (other than funds made available to carry out sec-
11 tions 803(d), 803A, 803C, and 804, and any other provi-
12 sion of this title having an express authorization of appro-
13 priations) shall be expended to carry out section 803(a).”;

14 (2) by redesignating subsection (d) as sub-
15 section (c); and

16 (3) by striking subsection (e).

17 (c) REPORTS.—Section 811A of the Native American
18 Programs Act of 1974 (42 U.S.C. 2992–1) is amended—

19 (1) by striking the section heading and all that
20 follows through “each year,” and inserting the fol-
21 lowing:

22 **“SEC. 811A. REPORTS.**

23 “Every 5 years, the Secretary shall”; and

24 (2) by striking “an annual report” and insert-
25 ing “a report”.

1 **SEC. 114. RESEARCH AND EDUCATIONAL ACTIVITIES.**

2 Section 7205(a)(3) of the Native Hawaiian Edu-
 3 cation Act (20 U.S.C. 7515(a)(3)) is amended—

4 (1) by redesignating subparagraphs (K) and
 5 (L) as subparagraphs (L) and (M), respectively; and

6 (2) by inserting after subparagraph (J) the fol-
 7 lowing:

8 “(K) research and educational activities re-
 9 lating to Native Hawaiian law;”.

10 **Subtitle B—Indian Education**
 11 **Provisions**

12 **SEC. 121. DEFINITION OF INDIAN STUDENT COUNT.**

13 Section 117(h) of the Carl D. Perkins Vocational and
 14 Technical Education Act of 1998 (20 U.S.C. 2327(h)) is
 15 amended by striking paragraph (2) and inserting the fol-
 16 lowing:

17 “(2) INDIAN STUDENT COUNT.—

18 “(A) IN GENERAL.—The term ‘Indian stu-
 19 dent count’ means a number equal to the total
 20 number of Indian students enrolled in each trib-
 21 ally-controlled postsecondary vocational and
 22 technical institution, as determined in accord-
 23 ance with subparagraph (B).

24 “(B) DETERMINATION.—

25 “(i) ENROLLMENT.—For each aca-
 26 demic year, the Indian student count shall

1 be determined on the basis of the enroll-
 2 ments of Indian students as in effect at
 3 the conclusion of—

4 “(I) in the case of the fall term,
 5 the third week of the fall term; and

6 “(II) in the case of the spring
 7 term, the third week of the spring
 8 term.

9 “(ii) CALCULATION.—For each aca-
 10 demic year, the Indian student count for a
 11 tribally-controlled postsecondary vocational
 12 and technical institution shall be the
 13 quotient obtained by dividing—

14 “(I) the sum of the credit-hours
 15 of all Indian students enrolled in the
 16 tribally-controlled postsecondary voca-
 17 tional and technical institution (as de-
 18 termined under clause (i)); divided by

19 “(II) 12.

20 “(iii) SUMMER TERM.—Any credit
 21 earned in a class offered during a summer
 22 term shall be counted in the determination
 23 of the Indian student count for the suc-
 24 ceeding fall term.

1 “(iv) STUDENTS WITHOUT SEC-
2 ONDARY SCHOOL DEGREES.—

3 “(I) IN GENERAL.—A credit
4 earned at a tribally-controlled postsec-
5 ondary vocational and technical insti-
6 tution by any Indian student that has
7 not obtained a secondary school de-
8 gree (or the recognized equivalent of
9 such a degree) shall be counted to-
10 ward the determination of the Indian
11 student count if the institution at
12 which the student is enrolled has es-
13 tablished criteria for the admission of
14 the student on the basis of the ability
15 of the student to benefit from the
16 education or training of the institu-
17 tion.

18 “(II) PRESUMPTION.—The insti-
19 tution shall be presumed to have es-
20 tablished the criteria described in sub-
21 clause (I) if the admission procedures
22 for the institution include counseling
23 or testing that measures the aptitude
24 of a student to successfully complete a

1 course in which the student is en-
 2 rolled.

3 “(III) CREDITS TOWARD SEC-
 4 ONDARY SCHOOL DEGREE.—No credit
 5 earned by an Indian student for the
 6 purpose of obtaining a secondary
 7 school degree (or the recognized
 8 equivalent of such a degree) shall be
 9 counted toward the determination of
 10 the Indian student count under this
 11 clause.

12 “(v) CONTINUING EDUCATION PRO-
 13 GRAMS.—Any credit earned by an Indian
 14 student in a continuing education program
 15 of a tribally-controlled postsecondary voca-
 16 tional and technical institution shall be in-
 17 cluded in the determination of the sum of
 18 all credit hours of the student if the credit
 19 is converted to a credit-hour basis in ac-
 20 cordance with the system of the institution
 21 for providing credit for participation in the
 22 program.”.

23 **SEC. 122. NATIVE NATIONS LEADERSHIP, MANAGEMENT,**
 24 **AND POLICY.**

25 (a) FINDINGS.—Congress finds that—

1 (1) the policy of the United States favors self-
2 determination for Indian tribes;

3 (2) consistent with the policy described in para-
4 graph (1), Indian tribes are increasingly taking con-
5 trol of the affairs of the tribes in order to realize in
6 practice most of the status afforded the tribes in
7 treaties, court decisions, and legislation;

8 (3) as a result of the increasing control of the
9 tribes, tribes require enhanced leadership prepara-
10 tion and greater access to information relating to re-
11 search and analysis of successful models for tribal
12 government and business operations, similar to the
13 information regularly available to Federal, State,
14 and local government agencies;

15 (4) enabling Indian tribes to develop strong
16 leadership and governing policy is consistent with
17 Federal policy supporting tribal self-determination
18 and increases the likelihood that tribal governments
19 will achieve political and economic self-determina-
20 tion; and

21 (5) during the last 5 years, the Morris K. Udall
22 Scholarship and Excellence in National Environ-
23 mental Policy Foundation, in cooperation with the
24 Native Nations Institute at the University of Ari-
25 zona, pursuant to section 6(7) of the Morris K.

1 Udall Scholarship and Excellence in National Envi-
2 ronmental and Native American Public Policy Act of
3 1992 (20 U.S.C. 5604(7)), has provided to Indian
4 tribes the leadership and management training, pol-
5 icy analysis, and research of the quality and type re-
6 quired to assist Indian tribes to achieve self-deter-
7 mination.

8 (b) DEFINITIONS.—Section 4 of the Morris K. Udall
9 Scholarship and Excellence in National Environmental
10 and Native American Public Policy Act of 1992 (20
11 U.S.C. 5602) is amended—

12 (1) by redesignating paragraphs (6) through
13 (9) as paragraphs (7) through (10), respectively;
14 and

15 (2) by inserting after paragraph (5) the fol-
16 lowing:

17 “(6) the terms ‘Indian tribe’ and ‘tribe’ have
18 the meaning given the term ‘Indian tribe’ in section
19 4 of the Indian Self-Determination and Education
20 Assistance Act (25 U.S.C. 450b);”.

21 (c) AUTHORITY OF FOUNDATION.—Section 7(a)(1)
22 of the Morris K. Udall Scholarship and Excellence in Na-
23 tional Environmental and Native American Public Policy
24 Act of 1992 (20 U.S.C. 5605(a)(1)) is amended by strik-
25 ing subparagraph (C) and inserting the following:

1 “(C) FIELDS OF STUDY.—

2 “(i) IN GENERAL.—The Foundation may
3 award scholarships, fellowships, internships,
4 and grants to eligible individuals in accordance
5 with this Act for study in fields relating to the
6 environment and Native American and Alaska
7 Native health care and tribal public policy.

8 “(ii) MINIMUM CRITERIA.—A scholarship,
9 fellowship, internship, or grant awarded under
10 this section shall be awarded to an eligible indi-
11 vidual that meets the minimum criteria estab-
12 lished by the Foundation.

13 “(iii) STATE-RECOGNIZED TRIBES, BANDS,
14 NATIONS, AND GROUPS.—Notwithstanding the
15 definition of ‘Indian tribe’ under section 4, the
16 Foundation may make an award under this sec-
17 tion to an individual that is a member of a Na-
18 tive American tribe, band, nation, or other or-
19 ganized group or community that is recognized
20 by a State.”.

21 (d) AUTHORIZATION OF APPROPRIATIONS.—Section
22 13 of the Morris K. Udall Scholarship and Excellence in
23 National Environmental and Native American Public Pol-
24 icy Act of 1992 (20 U.S.C. 5609) is amended by striking
25 subsection (c) and inserting the following:

1 “(c) TRAINING IN TRIBAL LEADERSHIP, MANAGE-
2 MENT, AND POLICY.—

3 “(1) IN GENERAL.—There is authorized to be
4 appropriated to carry out section 6(7)—

5 “(A) \$2,500,000 for each of fiscal years
6 2007 and 2008;

7 “(B) \$4,000,000 for each of fiscal years
8 2009 and 2010; and

9 “(C) \$13,500,000 for each of fiscal years
10 2011 through 2016.

11 “(2) LIMITATIONS.—An appropriation made
12 pursuant to this subsection shall not be subject to
13 section 7(c).”.

14 **Subtitle C—Border Preparedness**

15 **SEC. 131. BORDER PREPAREDNESS ON INDIAN LAND.**

16 Subtitle D of title IV of the Homeland Security Act
17 of 2002 (6 U.S.C. 251 et seq.) is amended by adding at
18 the end the following:

19 **“SEC. 447. BORDER PREPAREDNESS PILOT PROGRAM ON** 20 **INDIAN LAND.**

21 “(a) DEFINITIONS.—In this section:

22 “(1) INDIAN LAND.—The term ‘Indian land’
23 means—

24 “(A) all land within the boundaries of any
25 Indian reservation; and

1 “(B) any land the title to which is—

2 “(i) held in trust by the United States
3 for the benefit of an Indian tribe or indi-
4 vidual; or

5 “(ii) held by any Indian tribe or indi-
6 vidual—

7 “(I) subject to a restriction by
8 the United States against alienation;
9 and

10 “(II) over which an Indian tribe
11 exercises governmental authority.

12 “(2) INDIAN TRIBE.—The term ‘Indian tribe’
13 means any Indian tribe, band, nation, or other orga-
14 nized group or community that is recognized by the
15 Secretary as—

16 “(A) eligible for the special programs and
17 services provided by the United States to Indi-
18 ans because of their status as Indians; and

19 “(B) possessing powers of self-government.

20 “(3) TRIBAL GOVERNMENT.—The term ‘tribal
21 government’ means the governing body of an Indian
22 tribe.

23 “(b) PURPOSE.—The purpose of this section is to re-
24 quire the Secretary, acting through the Under Secretary
25 for Border and Transportation Security, to establish a

1 pilot program for tribal governments on Indian land lo-
2 cated on or near the border of the United States with Can-
3 ada or Mexico in order to—

4 “(1) facilitate the coordination of the response
5 of an Indian tribe to a threat to the security of an
6 international border of the United States with the
7 responses of Federal, State, and local governments;

8 “(2) enhance the capability of an Indian tribe
9 as a first responder to an illegal crossing of an im-
10 migrant over an international border of the United
11 States; and

12 “(3) provide assistance to Indian tribes in the
13 use by the tribes of effective aerial and ground sur-
14 veillance technologies, integrated communication sys-
15 tems and equipment, and personnel training.

16 “(c) PILOT PROGRAM.—

17 “(1) IN GENERAL.—Not later than 180 days
18 after the date of enactment of this section, the Sec-
19 retary, acting through the Undersecretary for Bor-
20 der and Transportation Security, shall provide funds
21 and other assistance to tribal governments in ac-
22 cordance with the Indian Self-Determination and
23 Education Assistance Act (25 U.S.C. 450 et seq.).

24 “(2) USE OF FUNDS AND ASSISTANCE.—

1 “(A) IN GENERAL.—A tribal government
2 shall use any funds or assistance provided
3 under paragraph (1) consistent with the pur-
4 poses of this section.

5 “(B) ADMINISTRATION BY TRIBAL GOV-
6 ERNMENTS.—A tribal government that receives
7 any funds or assistance under paragraph (1)
8 shall administer the funds or assistance in ac-
9 cordance with the Indian Self-Determination
10 and Education Assistance Act (25 U.S.C. 450
11 et seq.).

12 “(3) SELECTION CRITERIA.—In selecting a trib-
13 al government to receive funds or assistance under
14 paragraph (1), the Secretary may take into consider-
15 ation—

16 “(A) the distance between the Indian land
17 in the jurisdiction of the tribal government and
18 an international border of the United States;

19 “(B) the extent to which a border enforce-
20 ment effort effects the resources of the Indian
21 tribe; and

22 “(C) the interests of the Indian tribe.

23 “(d) REPORTS.—

24 “(1) TRIBAL GOVERNMENTS.—

1 “(A) IN GENERAL.—Not later than 1 year
2 after receiving funds or assistance under sub-
3 section (c), a tribal government shall submit to
4 the Secretary a report in such a manner and
5 containing such information as the Secretary
6 may require.

7 “(B) INCLUSION.—A report under sub-
8 paragraph (A) shall include a description of—

9 “(i) any funds or assistance received
10 by the tribal government under this sec-
11 tion;

12 “(ii) the use of the funds or assistance
13 by the tribal government; and

14 “(iii) any obstacle encountered by the
15 tribal government in administering the
16 funds or assistance.

17 “(2) SECRETARY.—Not later than 2 years after
18 the date of enactment of this Act, the Secretary
19 shall submit to Congress a report describing—

20 “(A) the information contained in the re-
21 ports under paragraph (1);

22 “(B) the degree of success of the Secretary
23 in implementing the pilot program; and

1 “(C) any recommendation, including a leg-
 2 islative recommendation, of the Secretary relat-
 3 ing to the pilot program.

4 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
 5 are authorized to be appropriated such sums as are nec-
 6 essary to carry out this section for each of fiscal years
 7 2006 through 2008.”.

8 **TITLE II—OTHER AMENDMENTS**
 9 **TO LAWS RELATING TO NA-**
 10 **TIVE AMERICANS**

11 **Subtitle A—Indian Land Leasing**

12 **SEC. 201. AUTHORIZATION OF 99-YEAR LEASES.**

13 (a) IN GENERAL.—Subsection (a) of the first section
 14 of the Act of August 9, 1955 (25 U.S.C. 415(a)), is
 15 amended in the second sentence—

16 (1) by striking “Moapa Indian reservation” and
 17 inserting “Moapa Indian Reservation,”;

18 (2) by inserting “the reservation of the Confed-
 19 erated Tribes of the Umatilla Indian Reservation,”
 20 before “the Burns Paiute Reservation,”;

21 (3) by inserting “the” before “Yavapai-Pres-
 22 cott”;

23 (4) by inserting “the Muckleshoot Indian Res-
 24 ervation and land held in trust for the Muckleshoot

1 Indian Tribe,” after “the Cabazon Indian reserva-
 2 tion,”;

3 (5) by striking “Washington,,” and inserting
 4 “Washington,”;

5 (6) by inserting “land held in trust for the
 6 Prairie Band Potawatomi Nation,” before “land held
 7 in trust for the Cherokee Nation of Oklahoma”;

8 (7) by inserting “land held in trust for the
 9 Fallon Paiute Shoshone Tribes,” before “land held
 10 in trust for the Pueblo of Santa Clara”; and

11 (8) by inserting “land held in trust for the
 12 Yurok Tribe, land held in trust for the Hopland
 13 Band of Pomo Indians of the Hopland Rancheria,”
 14 after “Pueblo of Santa Clara,”.

15 (b) EFFECTIVE DATE.—The amendments made by
 16 subsection (a) shall apply to any lease entered into or re-
 17 newed after the date of enactment of this Act.

18 **SEC. 202. CERTIFICATION OF RENTAL PROCEEDS.**

19 Notwithstanding any other provision of law, any ac-
 20 tual rental proceeds from the lease of land acquired under
 21 section 1 of Public Law 91–229 (25 U.S.C. 488) certified
 22 by the Secretary of the Interior shall be deemed—

23 (1) to constitute the rental value of that land;
 24 and

1 (2) to satisfy the requirement for appraisal of
 2 that land.

3 **Subtitle B—Navajo Health** 4 **Contracting**

5 **SEC. 211. NAVAJO HEALTH CONTRACTING.**

6 The Navajo Health Foundation/Sage Memorial Hos-
 7 pital in Ganado, Arizona, shall be considered to be a tribal
 8 contractor under the Indian Self-Determination and Edu-
 9 cation Assistance Act for the purposes of section 102(d)
 10 and subsections (k) and (o) of section 105 of that Act
 11 (25 U.S.C. 450f(d), 450j) provided that the Hospital re-
 12 mains the authorized tribal organization (as defined in
 13 section 4 of that Act (25 U.S.C. 450b)) of the Navajo
 14 Nation.

15 **Subtitle C—Probate Technical** 16 **Correction**

17 **SEC. 221. PROBATE REFORM.**

18 (a) NONTESTAMENTARY DISPOSITION.—Subsection
 19 (a)(2)(D)(iv)(I)(aa) of section 207 of the Indian Land
 20 Consolidation Act (25 U.S.C. 2206) (as amended by sec-
 21 tion 3(a) of the American Indian Probate Reform Act of
 22 2004 (Public Law 108–374)) is amended—

23 (1) by striking “clause (iii)” and inserting “this
 24 subparagraph”; and

1 (2) in subitem (BB), by striking “any co-
2 owner” and inserting “not more than 1 co-owner”.

3 (b) APPLICABLE FEDERAL LAW.—Subsection (h)(2)
4 of section 207 of the Indian Land Consolidation Act (25
5 U.S.C. 2206) (as amended by section 3(d) of the American
6 Indian Probate Reform Act of 2004 (Public Law 108–
7 374)) is amended—

8 (1) by inserting “specifically” after “pertains”;
9 and

10 (2) in subparagraph (B), by striking “allotted
11 lands” and inserting “trust or restricted allot-
12 ments”.

13 (c) PARTITION OF HIGHLY FRACTIONATED INDIAN
14 LAND.—Subsection (d) of section 205 of the Indian Land
15 Consolidation Act (25 U.S.C. 2204) (as amended by sec-
16 tion 4 of the American Indian Probate Reform Act of
17 2004 (Public Law 108–374)) is amended—

18 (1) in paragraph (2)—

19 (A) in subparagraph (G)(ii)(I), by striking
20 “a higher value of the land” and inserting “a
21 value of the land that is equal to or greater
22 than that of the earlier appraisal”; and

23 (B) in subparagraph (I)(iii)—

24 (i) in subclause (III), by inserting “(if
25 any)” after “this section”; and

1 (ii) in subclause (IV)(bb), by striking
 2 “to implement this section” and inserting
 3 “under paragraph (5)”; and
 4 (2) in the second sentence of paragraph (5), by
 5 striking “shall” and inserting “may”.

6 (d) PURCHASE OPTION AT PROBATE.—Subsection
 7 (p)(6) of section 207 of the Indian Land Consolidation
 8 Act (25 U.S.C. 2206) (as added by section 6(a)(2) of the
 9 American Indian Probate Reform Act of 2004 (Public
 10 Law 108–374)) is amended—

11 (1) in the first sentence, by striking “Proceeds”
 12 and inserting the following:

13 “(A) IN GENERAL.—Proceeds”; and

14 (2) by striking the second sentence and insert-
 15 ing the following:

16 “(B) HOLDING IN TRUST.—Proceeds de-
 17 scribed in subparagraph (A) shall be deposited
 18 and held in an account as trust personalty if
 19 the interest sold would otherwise pass to—

20 “(i) the heir, by intestate succession
 21 under subsection (a); or

22 “(ii) the devisee in trust or restricted
 23 status under subsection (b)(1).”.

1 (e) TRIBAL PROBATE CODES.—Section 206 of the
2 Indian Land Consolidation Act (25 U.S.C. 2205) is
3 amended—

4 (1) in subsection (b)(3), by striking subpara-
5 graph (A) and inserting the following:

6 “(A) the date that is 1 year after the date
7 on which the Secretary makes the certification
8 required under section 8(a)(4) of the American
9 Indian Probate Reform Act of 2004; or”; and

10 (2) in paragraph (2)(A)(i)(II)(bb) of subsection
11 (c) (as amended by section 6(a)(3) of the American
12 Indian Probate Reform Act of 2004 (Public Law
13 108–374)), by inserting “in writing” after “agrees”.

14 (f) EFFECTIVE DATE.—The amendments made by
15 this section take effect as if included in the American In-
16 dian Probate Reform Act of 2004 (Public Law 108–374).

Calendar No. 100

109TH CONGRESS
1ST Session

S. 536

[Report No. 109-67]

A BILL

To make technical corrections to laws relating to
Native Americans, and for other purposes.

MAY 12, 2005

Reported without amendment